



**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 7**

11201 Renner Boulevard
Lenexa, Kansas 66219

JUL 08 2015

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Chris Rector, City Superintendent
City of Gibbon Nebraska
Gibbon, NE 68840

Re: **Request for Information**
Pursuant to Section 308 of the Clean Water Act (33 U.S.C. § 1318)

IMMEDIATE ATTENTION REQUIRED

Dear Mr. Rector:

This correspondence concerns the City of Gibbon, Nebraska's publicly owned treatment works (POTW). Between October 20 - 23, 2014, a representative of the U.S. Environmental Protection Agency performed an inspection of the Gibbon POTW to assess compliance with NPDES Permit No. NE0023965. An industrial user of the City's POTW, Gibbon Packing, LLC (Gibbon Packing), is subject to the pretreatment requirements of Section 307 of the federal Clean Water Act (CWA), 33 U.S.C. 1317, and the general pretreatment regulations promulgated at 40 C.F.R. 403. Gibbon Packing's discharges of wastewater to the POTW are also regulated by an Industrial Pretreatment Permit, issued by the Nebraska Department of Environmental Quality (NDEQ) NPDES/NPP Permit No. NE0124061 (Effective October 1, 2014 through September 30, 2019). During October 2014, EPA also inspected the Gibbon Packing facilities that utilize the City's POTW for treatment of industrial wastewater.

The EPA's October 2014 inspections were conducted pursuant to the authority of Section 308 of the Clean Water Act, 33 U.S.C. § 1318. At the close of the inspection, a Notice of Potential Violation was provided by the EPA to the City noting the agency's observed violations of the referenced Permit, and documented the recent historical impacts of discharges of wastewater from the Gibbon Packing facilities to the POTW. For your reference, a compact disc with a copy of the agency's inspection report for the October 2014 inspection is enclosed.

The purpose of this Request for Information is to obtain additional information so the agency may assess the circumstances of the violations documented by EPA's inspection (including historical violations), the impacts of Gibbon Packing wastewater on the POTW, actions the City has taken since the EPA inspections, and to better evaluate the POTW's current compliance with the CWA.

Section 308(a) of the CWA, 33 U.S.C. § 1318(a), authorizes the agency to require the submission of any information necessary to carry out the objectives of the CWA, 33 U.S.C. § 1251 *et seq.*

Under the authority of Section 308 of the CWA, the agency hereby requires the City of Gibbon to provide the information requested in **ENCLOSURE 1** in accordance with **the deadlines and instructions set forth therein.**

Guidance on How to Respond

Please read the instructions included in ENCLOSURE 1 carefully before preparing your responses to this Information Request. Your response is required within 21 days of your receipt of this letter.

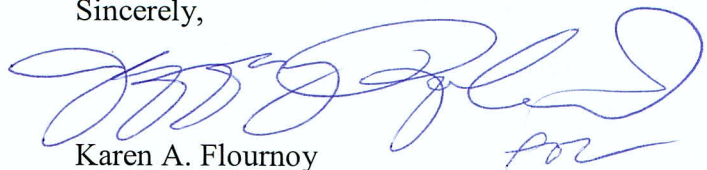
Important Information about This Request for Information and the required Response

Please be advised that the failure to respond accurately, or the submission of false information, may subject you to civil or criminal penalties under Section 309 of the CWA, 33 U.S.C. § 1319, and/or 18 U.S.C. § 1001. Further note that the agency reserves the right to pursue appropriate enforcement actions under Section 309 of the CWA, 33 U.S.C. § 1319, including penalties, for violations of the CWA, including those discovered as a result of the agency's October 2014 inspection.

The information required by this request must be submitted notwithstanding any claim you may have concerning confidentiality. The City of Gibbon may assert a business confidentiality claim with respect to part or all of the information submitted to the agency under the provisions of 33 U.S.C. § 1318 and 18 U.S.C. § 1905, as further described in the enclosed instructions. The agency will consider and process such a request pursuant to such statutes and the agency regulations at 40 C.F.R. Part 2, Subpart B. If no such claim accompanies the information when it is submitted to the agency, it may be made available to the public by the agency without further notice to the City of Gibbon. Please note that pursuant to 40 C.F.R. § 2.302, effluent data, as defined therein, is not eligible for confidential treatment.

We appreciate your cooperation and prompt attention to this matter. If you have any questions regarding this information request, please contact Mr. Paul Marshall of my staff at phone number (913) 551-7419.

Sincerely,



Karen A. Flournoy

Director

Water, Wetlands and Pesticides Division

Enclosures

cc: Steven Goans, NDEQ

ENCLOSURE 1

REQUEST FOR INFORMATION

Re: City of Gibbon, Nebraska

This information is requested by the U.S. Environmental Protection Agency, and response required from the City of Gibbon, Nebraska (City) pursuant to Section 308 of the Clean Water Act, 33 U.S.C. § 1318.

This Request for Information is issued to the City of Gibbon identified as the owner and operator of the Publically Owned Treatment Works described in the NPDES Permit, issued by the Nebraska Department of Environmental Quality (NDEQ)(Permit No. NE0023965). Specifically, the POTW facility located at NE 1/4 SW 1/4, Section 34, Township 22 North, Range 6 East, Cuming County, Nebraska.

I. Instructions

1. Please provide a separate response to each and every request set forth below. Please label each response in a manner that identifies the number of the question or document request. You are required to provide all requested information, including information that may not be in your direct possession or the possession of City employees, but that you have the ability to obtain upon request or demand. This includes information in the possession, custody or control of the City, City employees and/or contractors.
2. If any response cannot be provided in full, provide the response to the extent possible along with an explanation of why the response cannot be provided in its entirety. If responsive information is in the possession of a third party that will not provide the information to the City, identify the third party and describe any reasons given for not providing the responsive information.
3. If information or documents not known or not available to you as of the date of submission of your response to this request should later become known or available to you, you must supplement your response to the EPA within ten (10) business days of when the information or documents become known or available. Moreover, should you find, at any time after the submission of your response, that any portion of the submitted information is inaccurate, false or misrepresents the truth, you must notify the EPA of this fact immediately and provide a corrected response within ten (10) business days of when you find the information is false or misrepresents the truth.
4. Certification. The Statement of Certification found in ENCLOSURE 2 must be submitted along with your responses. This statement must be made by a person authorized to sign reports pursuant to 40 C.F.R. § 122.22(a). For your convenience, the text of 40 C.F.R. § 122.22(a) is included on ENCLOSURE 2.
5. Confidential Business Information. If you believe any of the requested information is confidential, you may assert a business confidentiality claim under the provisions of 33 U.S.C. § 1318, 18 U.S.C. § 1905, and the regulations at 40 C.F.R. Part 2, and in the manner described at 40 C.F.R. § 2.203(b). Information requested by this letter, however, must be submitted to the EPA regardless of such a claim of confidentiality. If the EPA determines the information you have designated meets the criteria in 40 C.F.R. § 2.208, the information will be disclosed only to the extent and by means of the procedures

specified in Subpart B. Unless a confidentiality claim is asserted at the time the requested information is submitted, the EPA may make the information available to the public without further notice to you.

6. *Accurate and Truthful Information Required.* Compliance with this information request is mandatory. Please be advised that the failure to respond accurately, or the submission of false information, may subject you to civil or criminal penalties under Section 309 of the CWA, 33 U.S.C. § 1319, and/or 18 U.S.C. § 1001. Please be aware that the issuance of this letter and your response with the requested information does not relieve you of any responsibility under the Act for seeking, maintaining, or complying with an applicable NPDES permit.

7. *Submission of Response to Information Request.* All responses to this Information Request must be submitted within **TWENTY ONE (21) days** of receipt of this letter. Each response should be submitted in a manner that allows you to track delivery, and must be submitted to:

**Paul Marshall, Pretreatment Coordinator
U.S. Environmental Protection Agency
Water, Wetlands and Pesticides Division
11201 Renner Boulevard
Lenexa, Kansas 66219.**

Requests for Extension of Time to Respond. If you believe for any reason that you will not be able to send a complete response to this Information Request within 21 days, you may submit a written request for an extension within five (5) calendar days of receipt of this letter. When requesting an extension, you must specify which questions you will need additional time to answer. All other responses should be submitted on or before the end of the ten-day period. For more information, contact Paul Marshall at 913-551-7419.

II. Definitions

The following definitions shall apply to the following words as they appear in the above Request for Information:

1. The terms "City of Gibbon" or "City" or "Gibbon" shall mean the City of Gibbon, Nebraska, and all employees, contractors, agents, servants, representatives, attorneys, or other persons previously or presently, directly or indirectly, employed or retained by Gibbon or anyone else acting on Gibbon's behalf or otherwise subject to Gibbon's control, including any company or person from which West Point has the ability to obtain information on demand.
2. The term "POTW" shall mean Gibbon's "Publicly-owned Treatment Works" facility located in Gibbon, Nebraska, as described in NPDES permit No. NE0023965. Specifically, the POTW facility located at NE 1/4 SW 1/4, Section 34, Township 22 North, Range 6 East, Cuming County, Nebraska.
3. The term "Gibbon Packing, L.L.C.," or "Gibbon Packing" shall mean the dairy production business addressed at 218 East Highway 30, P.O. Box 730, Gibbon, NE 68840; and as identified in the Industrial Pretreatment Permit, issued by the Nebraska Department of Environmental Quality (NDEQ) NPDES/NPP Permit No. NE0124061 (Effective October 1, 2014 through September 30, 2019).
4. The term "person" shall have the same definition as in Section 502(5), 33 U.S.C.

§ 1362(5) of the CWA: an individual, corporation, partnership, association, State, municipality, commission, or political subdivision of a State, or any interstate body.

5. "Discharge" or "Discharge of pollutants" shall mean any action within the meaning of these terms, as defined at Section 502 of the CWA, 33 U.S.C. § 1362, and all regulations promulgated thereunder.

6. The term "identify" means, with respect to a natural person, to set forth the person's name, present or last known business address and business telephone number, present or last known home address and telephone number, and present or last known job title, position or business.

7. The term "identify" means, with respect to a corporation, partnership, business trust or other association or business entity (including a sole proprietorship) to set forth its full name, address, legal form, (e.g., corporation, partnership, etc.) organization, if any, and a brief description of its business.

8. The term "identify" means, with respect to a document, to provide its customary business description, its date, its number if any (invoice or purchase order number), the identity of the author, addressor, addressee and/or recipient, and the substance or the subject matter.

9. The terms "document" and "documents" shall mean any object that records, stores, or presents information, and includes writings of any kind, formal or informal, whether or not wholly or partially in handwriting, including by way of illustration and not by way of limitation, any invoice, manifest, bill of lading, receipt, endorsement, check, bank draft, canceled check, deposit slip, withdrawal slip, order, correspondence, record book, minutes, memoranda of telephone and other conversations including meetings, agreements and the like, diary, calendar, desk pad, scrapbook, notebook, bulletin, circular, form, pamphlet statement, journal, postcard, letter, telegram, telex, report, notice, message, analysis, comparison, graph, chart, interoffice or intra office communications, photostat or other copy of any documents, microfilm or other film record, any photograph, sound recording on any type of device, any punch card, disc, or disc pack, any tape or other type of memory generally associated with computers and data processing (together with the programming instructions and other written material necessary to use such punch card, disc, or disc pack, tape or other type of memory and together with printouts of such punch card, disc, or disc pack tape or other type of memory); and (a) every copy of each document which is not an exact duplicate of a document which is produced, (b) every copy which has writing, figure or notation, annotation or the like on it, (c) drafts, (d) attachments to, or enclosures with, any document and (e) every document referred to in any other document.

10. The terms "and" and "or" shall be construed either disjunctively or conjunctively as necessary to bring within the scope of this Request for Information any information which might otherwise be construed to be outside of its scope.

11. The term "arrangement" means every separate contract or other agreement, verbal or written, between two or more persons.

12. Words in the masculine shall be construed in the feminine, and vice versa, and words in the singular shall be construed in the plural, and vice versa, where appropriate in the context of a particular question or questions.

13. All terms not defined herein shall have their ordinary meaning, unless such terms are defined in the CWA, 33 U.S.C. § 1251, et seq, and regulations promulgated thereunder, in which case the statutory or regulatory definitions shall apply

III. Requested Information

Please submit your response to this Information Request within twenty one (21) days of receipt, unless a different specific deadline for submission is stated. Please clearly identify your responses with a numbering system corresponding to the questions as listed below. (*See, Section I, Instructions.*) Should you not have the information requested, you must provide a response stating that you have no such information, documentation, records, etc. This is required for each numbered or lettered question to which you are unable to provide the requested information.

Note that except for a cover letter or memorandum and the Statement of Certification, 1) only copies, and not original documents, should be submitted pursuant to this request, and 2) documents and data may be submitted on a compact disk in PDF, Word, Excel or other widely available electronic format.

Preliminary Information

1. Identify the person to contact regarding your response, including title, address and phone number
2. Your responses to the questions are to be provided by a qualified professional. Provide the name and credentials of the person(s) providing information in response to this Information Request.

With Regards to Sampling and Analysis

1. Beginning within 48 hours of receipt of this document, and until receipt of notice from EPA of termination of this requirement, the City of Gibbon shall sample all influent and all effluent locations, as described in NPDES permit NE0029297, on a daily basis for Oil & Grease every day that Gibbon Packing LLC is operating.
2. The City shall continue sampling Gibbon Packing's Outfall 002 and 003 on a daily basis for BOD and TSS, and weekly for TKN and Oil and Grease.
3. All sample results obtained from Items 1 and 2, above, shall be submitted on a monthly basis to EPA at the address provided in this letter. In addition, all samples taken as required by the City's NPDES permit shall be submitted to EPA, whether they are reported on the City's Discharge Monitoring Reports or not. Documentation of the results of all samples taken in a calendar month shall be postmarked no later than 10 days following the end of that calendar month.

With Regards to the Wastewater Treatment Plant Operations

4. For the time period between January 1, 2009 and the present, provide a copy of all logs, memos, emails, letters, reports, or other documentation of the day-to-day operations of the wastewater treatment plant.

5. For the time period between January 1, 2009 and the present, identify by beginning date and end date, all time periods where all three Sequenced Batch Reactor tanks (SBR) at the POTW were operational, all time periods where only two SBR tanks were operational, and all time periods where only one SBR tank was operational
6. For the time period between January 1, 2009, and the present, provide copies records of all documenting requests for capital expenditures made for wastewater treatment, including purchase orders for any equipment or service for the wastewater treatment plant. This includes, but is not limited to, requests made to the City council of the City of Gibbon or any other City employee by the contract operator of the POTW, or any other person.
7. Identify all industrial users and facilities whose waste is treated in the POTW's anaerobic lagoons. If the number of facilities has changed during the period between January 1, 2009 and the present, identify the date these changes occurred and the specific industrial users/facilities.

With Regards to Communications and Reports on the City's Wastewater Treatment Plant.

8. For the period between January 1, 2009 and the present, provide copies of all reports made at City Council meetings on the operation and or condition of the City's POTW.
9. For the period between January 1, 2009 and the present, provide copies of all reports submitted to NDEQ pursuant to the NDEQ's August 2012 Compliant, Compliance Order and Notice of Opportunity for a Hearing (Order) issued to the City of Gibbon, including, but not limited to the monthly progress reports required by Paragraph 10 of the referenced NDEQ Order.
10. Provide copies of all reports, evaluations, assessments, studies, etc. made of the wastewater treatment plant since its conversion to an SBR system. This includes those made by the City, Gibbon Packing or its predecessors, all contractor operators of the POTW (People Service) or their predecessors, and/or any other third party.
11. For the period between January 1, 2009 and the present, provide copies of any letters, emails, meeting notes, minutes, or any other documentation of meetings or communication with Gibbon Packing that discuss the treatment of Gibbon Packing's wastewater.
12. For the period between January 1, 2009 and the present, provide copies of all letters, emails, meeting notes, minutes, or any other documentation of meetings or communication with Gibbon Packing that discuss the performance of the city's POTW.
13. For the period between January 1, 2009 and the present, provide copies of all letters, emails, meeting notes, minutes, or any other documentation of meetings or communication with Gibbon Packing that discuss payment for improvements, equipment replacement or repair, or routine or unforeseen Operation and Maintenance expenses at the city's POTW.

With Regards to Funding of the City's Wastewater Treatment Plant.

14. Provide a copy of all grant requests made between January 1, 2009 and the present for the repair, expansion, or operation and maintenance of the City's POTW.
15. For the period between January 1, 2009 and the present, provide copies of all contracts or agreements with People Service, Inc. for operating the City's POTW.
16. For the period between January 1, 2009 and the present, provide copies of all contracts or agreements between the City and Gibbon Packing for wastewater treatment, including permits, contracts, Memoranda of Agreement, treatment agreements, surcharge schedules, etc.
17. For the period between January 1, 2009 and the present, provide copies of any letters, emails, meeting notes, memoranda, etc. with any representative of Gibbon Packing discussing payments or other assistance to repair the City's POTW.
18. For the period between January 1, 2009 and the present, provide copies of any payments made by Gibbon Packing to repair or replace equipment at the City's POTW.

ENCLOSURE 2:

Each submittal to EPA pursuant to the requirements of this Information Request shall include a written statement signed by the Respondent (City of Gibbon), or by a duly authorized representative of that person, as described at 40 C.F.R. § 122.22, that contains the following certification:

I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.